

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201507029**

Release Date: 2/13/2015

Date: 11/18/2014

**Department of the Treasury**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

UIL: 4945.04-04

X= Program Name

Y= Corporation Name

Z= Organization Name

b dollars = Amount

c dollars = Amount

d dollars = Amount

e dollars = Amount

f=Number of Awards

g=Number

h=Age

j=Time period

k=Number

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures will not be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(b)).

### **Description of your request**

Your letter indicates you will operate an employer-related scholarship program called X. The purpose of X is to promote the life-changing impact of an undergraduate education by increasing the opportunities for the most impressive children and grandchildren of full-time employees of Y and its subsidiaries. X will provide scholarships to children and grandchildren of full-time employees of Y and its subsidiaries to pursue a college or university education as well as provide additional resources to help working families provide educational opportunities to their future generations.

X will not be used by Y, any Y subsidiary, or you to recruit employees or induce employees to continue their employment or otherwise follow a course of action sought by Y. Your awards are consistent and further the disinterested purpose of enabling the recipients to obtain an education in their individual capacities solely for their personal benefit. The recipients will have no commitment, understanding or obligation to undertake studies for the benefit of Y, or any Y subsidiary. X will not accomplish any commercial purpose of Y or any of its subsidiaries. Recipients must enroll in a full-time course of study at an accredited four-year college or university, but may choose any course of study desired at such college or university. Study must be at a traditional college or university, not at a proprietary or online school. You impose minimum requirements for grant eligibility. These requirements relate to the purpose of your program and act to limit the selection committee's consideration to those children or grandchildren of employees who both meet the minimum standards for admission to an education institution for which grants are available and are expected to attend such institution.

You have an agreement with Z indicating that grants funded by you will be administered, supervised, and paid out by Z. Z is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and has been classified as a publicly supported organization. Under the terms of the agreement, you will make annual contributions to Z to fund scholarships for the children and grandchildren of Y's employees.

You have set aside b dollars to ensure X continues to provide educational opportunities and may choose to provide additional funding in the future. You anticipate you will annually make in the range of f grants in the total amount of d dollars; awards will not be less than c dollars and typically in the range of e dollars. You anticipate receiving applications from at least g eligible students based upon preliminary information available to you. However, your awards will not exceed 25 percent of the number of employees' children who:

- Are eligible;
- Applicants for such grants;
- Considered by the selection committee in selecting the recipients of grants in that year; or 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year;

When calculating 25 percent of applicants, you will employ the rounding convention of Revenue Procedure 94-78. You reserve the right to determine the number of awards that

will be less than 25 percent of applicants and/or less than 10 percent of the eligible applicants.

Because eligibility for X includes both children and grandchildren of employees of Y and its subsidiaries, you do not have sufficient information to identify the total number of potential applicants and you are unable to determine with precision how many total students may be eligible in future years. You will request Y provide information to determine those who may be eligible for grants but have not submitted an application, and may from time to time request that Y voluntarily provide census information, which would identify the pool of potential applicants. You also anticipate that the potential pool of eligible applicants will increase over time. If necessary, you will reduce the number of scholarship awards in order to ensure that the number of awards will be less than 25 percent of applicants considered.

However, you reserve the right to provide additional total annual funding for your program and to change the maximum scholarship award to reflect changing economic circumstances and the cost of an undergraduate education.

To apply for X, individuals must meet the following requirements:

- Applicants must be age h and under.
- Applicants must be children or grandchildren of full-time employees of Y or its subsidiaries and employed by Y or its subsidiaries for a minimum of j as of the application deadline. Alternatively, applicants may be previous recipients of an award pursuant to the scholarship program regardless of whether their parent or grandparent continues to be an employee of Y or its subsidiaries. Employment related factors do not affect eligibility.
- Applicants must be high school seniors who will enroll or are enrolled currently in a full-time undergraduate course of study at an accredited four-year college or university for the entire academic year. Awards are for undergraduate study only.
- Applicants may not be relatives of your founder, your directors or employees of Z, their affiliates and subcontractors and their relatives.

In addition, for purposes of determining eligibility, an applicant may be required to provide evidence of his or her age and that he or she is a biological child or grandchild, legally adopted as a child or grandchild, or a stepchild or grandchild of an employee.

Y will publicize X on its website and you will provide information to Y's employees about X; the application and instructions are also on Y's website. Applicants will send their applications directly to a selection committee chosen by Z so the committee is completely independent of you. The committee will evaluate and select recipients based on consideration of past academic performance and potential, unusual personal or family circumstances, leadership and participation in school and community activities, work

experience, statement of career and educational aspirations and goals, and an outside appraisal from a high school or college counselor or advisor, an instructor or work supervisor. Financial need is not considered. Once selected, the committee will forward its list of selected recipients to you solely to verify that such recipients comply with the eligibility requirements and that the committee has followed the selection criteria in considering the candidates and in making selections. You or the selection committee will make the public announcement of the scholarships.

You will confirm annually whether you have sufficient funds allocated to provide scholarships to all of the selected recipients. You may reduce the number of grants for any particular year, but will not increase the number of grants after selection of the recipients. Only the selection committee may vary the amounts of any grant awarded.

The scholarships are not renewable, but a recipient may reapply each succeeding year for up to k years or until a degree is earned, whichever occurs first. Once you award a scholarship, any change in the employment of the recipient's parents and/or grandparents will no longer be relevant to the selection process.

All recipients under X will enroll in the designated college or university. Z will provide written notification to scholarship recipients of awards, notify the applicants who will not be recipients, and mail checks to the applicable college or university of the award. The written notice to recipients will contain an explanation of the applicable terms and conditions.

Z will send the awards to the recipients payable to the educational institute. In the unlikely event that a student is able to cash the check and then misuse scholarship funds, you will terminate the student's participation in the scholarship program and would attempt to recover the misused funds from the student.

Z will collect information regarding your program and you agree to maintain certain information about your program in accordance with Code Section 4945(d)(3), including the following:

- The information used to evaluate the qualifications of potential grantees;
- Identification of the grantees (including any relationship of any grantee to the private foundation), the amount and purpose of each grant;
- All reports and other follow-up data obtained in administering your scholarship program.

#### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- Use of the scholarship for study at an educational organization described in Code section 170(b) (1) (A) (ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants will not exceed 10 percent of the number of employees who are eligible for grants, applicants for grants, and considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.

- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

**Other conditions that apply to this determination:**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures do not differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you and not cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You may report any significant changes to your program by completing Form 8940 and sending it to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- You will distribute funds to individuals on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c) (2) (B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations